

**RUTHERFORD COUNTY  
VOLUNTARY FARMLAND PRESERVATION PROGRAM  
ORDINANCE**

**ARTICLE I**

**TITLE**

An ordinance of the Board of County Commissioners of RUTHERFORD COUNTY, NORTH CAROLINA, entitled, "VOLUNTARY FARMLAND PRESERVATION PROGRAM ORDINANCE."

**ARTICLE II**

**AUTHORITY**

The article and sections of this program are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-743.

**ARTICLE III**

**PURPOSE**

The purpose of this ordinance is to promote agricultural values and general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

**ARTICLE IV**

**DEFINITIONS**

The following are defined for purposes of this ordinance:

Advisory Board: Rutherford County Agricultural Advisory Board.

Chairman: Chairman of the Rutherford County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Rutherford County Board of Commissioners.

## ARTICLE V

### AGRICULTURAL ADVISORY BOARD

#### A. Creation

The Board of Commissioners establishes an Agricultural Advisory Board to implement the provisions of this program.

#### B. Membership

The Advisory Board shall consist of seven members appointed by the Board of Commissioners.

#### C. Membership

1. Each Advisory Board member shall be a Rutherford County resident with each member representing one or more Agricultural Districts.
2. At least five of the seven members shall be actively engaged in production agriculture.
3. The members actively engaged in production agriculture shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation

District, the Cooperative Extension Service, the Farm Service Agency Committee, and the Rutherford County Farm Bureau with an effort to have the broadest geographical representation possible.

D. Tenure

The initial Advisory Board is to consist of two appointees for one year; two appointees for terms of two years; and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment for one consecutive term permitted. After which, these members may be reappointed after a one year absence from the Advisory Board. Subject to the foregoing members of the Advisory Board serve at the pleasure of the Board of Commissioners and can be removed with or without cause.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term. Vacancy should be filled based on membership criteria established in Article V, Section C, Number iii.

F. Advisory Board Procedure

1. Chairman

The Advisory Board shall elect a chairman and vice-chairman each year at it's first

meeting of the fiscal year. The chairman shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairman, the vice-chairman shall preside and shall exercise all the powers of the chairman. Additional officers may be elected as needed.

2. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.

3.. Advisory Board Year

The Advisory Board shall use the Rutherford County fiscal year as it's meeting year.

4.. Meetings

Meetings of the Advisory Board shall be held at the call of the chairman and at such other times as the Advisory Board may specify in its rules of procedure. Notice of any meetings to the members shall be in writing, unless otherwise agreed to by all Advisory Board members. Quorum of the Advisory Board must be present to conduct official business. A quorum will consist of a majority of the Advisory Board members.

5. Majority Vote

The concurring vote of a majority of the members of the Advisory Board present shall be necessary to: reverse any order, requirement, decision, or determination of the Agricultural Advisory Board; to decide in favor of an applicant; or to pass upon any other matter on which it is required to act under this ordinance.

## 6.. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the Office of the Advisory Board and shall be a public record.

## G. Duties

The Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
2. Conduct public hearings;
3. Advise the Board of Commissioners on projects, programs or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
4. Review and make recommendations concerning proposed amendments to this ordinance;
5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and,
6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

## ARTICLE VI

### CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

#### A. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which meet the following standards:

1. The District shall contain a minimum of 50 contiguous acres of qualified farmland; OR shall contain two or more qualified farms which contain a minimum of 50 acres and are located within a mile of each other.
2. An Agricultural District may be enlarged by adding qualifying farms subsequent to its initial formation.

#### B. Encourage Information

The county may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the farmland preservation program.

#### C. Display

The Districts shall be marked on county maps displayed for public view in the following county offices:

1. Register of Deeds
2. Planning Department
3. Tax Supervisor
4. Soil and Water Conservation District
5. Cooperative Extension Service
6. Any other office deemed necessary by the Advisory Board.

D. Withdrawal

In the event that one or more participants in the District withdraw and the acreage in the District becomes less than the minimum acreage required in the remaining land being non-contiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm.

## ARTICLE VII

### CERTIFICATION AND QUALIFICATION OF FARMLAND

A. Requirements

1. To secure county certification as qualifying farmland, a farm must:
  - a. Be participating in the farm present-use-valuation taxation program established by N.C.G.S. 105-277.2 through 105-277.7 or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3;

- b. Be certified by the Natural Resource Conservation Service of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that:
- i. are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops;
  - ii. have good soil qualities;
  - iii. are favorable for all major crops common to the county where the land is located;
  - iv. have a favorable growing season and,
  - v. receive the available moisture needed to produce high yields for an average of eight out of ten years;

OR

have been actively used in agricultural, horticultural or forestry operations as defined by N.C.G.S. 105-277.2 (1,2,3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies;

- c. be managed, if highly erodible land exists on the farm, in accordance with the Natural Resource Conservation Service defined erosion-control practices that are addressed to said highly-erodible land;



- d. be the subject of a conservation agreement between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.

## ARTICLE VIII

### APPLICATION, APPROVAL AND APPEAL PROCEDURE

#### A. Application Procedure

1. A landowner may apply to participate in the program by making application to the chairman of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.
2. An agreement to sustain, encourage and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

#### B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within 60 days of receipt to approve or disapprove the application. The chairman shall notify the applicant by first class mail of approval or

disapproval of participation in the district.

2. Upon receipt of an application, the chairman will forward copies immediately to:

- a. The Rutherford County Tax Assessor's office; and
- b. The Rutherford County Soil and Water Conservation District and the Natural Resource Conservation Service. The offices shall evaluate, complete and return their copies to the chairman within 30 days of receipt.

C. Appeal

If an application is denied by the Advisory Board, the petitioner has 30 days from the date of written notification of denial from the Board to appeal the decision to the Board of Commissioners. Such appeal shall be made in writing to the Clerk of the Board of Commissioners at the Rutherford County Annex. The decision of the Board of Commissioners is final.

## ARTICLE IX

### REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke the same Preservation Agreement based on non-compliance by the landowner, subject to the same procedure for appeal as

stated in Article VIII, Paragraph C. The time for appeal shall begin to run 30 days from the date of notification of revocation of Preservation Agreement. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

## ARTICLE X

### PUBLIC HEARINGS

#### A. Purpose

Pursuant to N.C.G.S. 106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation, this ordinance provides for such hearing.

#### B. Procedure

1. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspaper(s) of Rutherford County within five business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within 30 days of receipt of the request.
2. The Advisory Board shall meet to review:
  - a. if the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal

impact analysis conducted by the agency involved:

- b. alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. Land value will not be a factor in the selection between properties under consideration for the proposed action.
4. Within 10 days after the public hearings, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing acquisition.
5. Pursuant to N.C.G.S. 106-740, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Advisory Board within these time limitations.
6. Prior to initiating condemnation proceedings which would convert land in a District to non-farm uses, the county or any other local unit of government shall submit to the Advisory Board a statement that the governmental unit has considered alternatives to condemning farmland in the District.

## ARTICLE XI

### PUBLIC NOTICE

#### A. Procedure

1. Upon certification of qualifying farmland and designation of real property as a District, the Rutherford County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such is located within one-half aerial mile of a voluntary agricultural district.
2. Rutherford County shall require persons applying for a building permit, or persons registering a deed sign the following statement, which shall be maintained at the office of the Advisory Board: "I certify that I have reviewed the most current Rutherford County Agricultural Districting Map found in the Register of Deeds Office. I have noted the proximity of Agricultural District Boundaries to my property. I understand that activities such as pesticide spraying, manure spreading, machinery operation, livestock operations and other common farming activities may occur at any time in these areas."

#### B. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

C. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

ARTICLE XII

SUBDIVISION ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts within one-half aerial mile of the proposed development.

ARTICLE XIII

WAIVER OF WATER AND SEWER ASSESSMENTS

The purpose of this section is to help mitigate the financial impacts on farmers of some local and state capital investments unused by such farmers.

A. No Assessment

A landowner belonging to voluntary agricultural districts shall not be assessed for or required to connect to water and/or sewer systems.

B. Abeyance

Water and sewer assessments will be held in abeyance, without interest, for farms.

whether inside or outside a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

C. Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

E. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. 153A-201.

F. Conflict with Water and/or Sewer System Construction and Improvements Grants

To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.

## ARTICLE XIV

### CONSULTATION AUTHORITY

The Advisory Board may consult with the Cooperative Extension Service Office, the Natural Resource Conservation Service Office, the North Carolina Department of Agriculture, the Rutherford County Farm Bureau, the North Carolina Farm Bureau, the Rutherford County Board

of Commissioners, and any other agency the Advisory Board deems necessary to properly conduct its business.

## ARTICLE XV

### NORTH CAROLINA AGENCY NOTIFICATION

#### A. Record Annually with the Department of Agriculture

A record of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year the county shall submit a written report to the Commissioner of Agriculture concerning the status, progress and activities of the county's Farmland Preservation Program, including District information regarding:

1. Number of landowners enrolled;
2. Number of acres applied;
3. Number of acres certified;
4. Number of acres denied;
5. Date certified.

## ARTICLE XVI

### LEGAL PROVISIONS

#### A. Severability

If any article, section, subsection, clause, phrase or portion of this ordinance is



for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

B. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Rutherford County, this ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

C. Amendments

This ordinance may be amended from time to time after notification, and in consultation with the Agricultural Advisory Board to the Board of Commissioners.

**ARTICLE XVII**

**ENACTMENT**

The Rutherford County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 2nd day of October, 2000.

Motion for adoption by Vice Chairman Splawn and seconded by Commissioner Harrick.

**RUTHERFORD COUNTY BOARD OF COMMISSIONERS**

*Franklin Woods*  
Chairman

**ATTEST:**

*Wayne S. Hayden*  
Clerk to Board of Commissioners

**What restrictions will be placed on my farm if I join the program?**

The Voluntary Farmland Preservation Program members will enter into a conservation agreement between the County and the landowner that prohibits non-farm use or development of that land for a period of at least 10 years. The conservation agreement, however, will allow the development of up to three lots on participating farms included in a District.

**What happens if I want to remove all or part of my land from the program?**

A landowner in the Voluntary Farmland Preservation Program may remove all or a portion of his/her land from the Voluntary Farmland Preservation Program by giving written notice to the Agricultural Advisory Board. This revocation will result in loss of eligibility for that parcel to participate in a Voluntary Agricultural District as well as loss of associated benefits. If a portion of the land is removed from the program, the remaining land must meet the program conditions and qualifications for the farm to continue in the program.

**FOR MORE INFORMATION PLEASE CONTACT:**

Rutherford Soil & Water  
Conservation District  
121 Laurel Dr.  
Rutherfordton, NC 28139  
Telephone #: 287-4817

Rutherford County Assessor's Office  
Courthouse, Main Street  
Rutherfordton, NC 28139  
Telephone #: 287-6175

N.C. Cooperative Extension Service  
Rutherford County Center  
193 Callahan Koone Rd.  
Spindale, NC 28160  
Telephone #: 287-6010, 287-6011

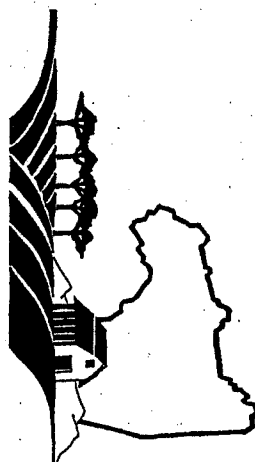
Farm Service Agency  
121 Laurel Dr.  
Rutherfordton, NC 28139  
Telephone #: 287-4220

**Agricultural Advisory Board Members:**

<i>*Jim Andrews</i> .....	245-5723
<i>*Ed Biddix</i> .....	287-5248
<i>*Tom Carswell</i> .....	287-4444
<i>*Bill Eckler</i> .....	287-8724
<i>*Reid Helton</i> .....	453-8154
<i>*Ronald Hawkins</i> .....	453-8630
<i>*Janice Nicholson</i> .....	288-6201

In Cooperation with:  
Rutherford County, North Carolina Board of  
Commissioners, Rutherford Soil & Water Conservation  
District, Rutherford County Farm Bureau,  
N.C. Cooperative Extension Service

**Voluntary  
Farmland  
Preservation  
Program**



Rutherford County  
North Carolina

**IN COOPERATION WITH**  
Rutherford County North Carolina  
Board of Commissioners

Rutherford Soil & Water  
Conservation District  
North Carolina  
Cooperative Extension  
Service

Rutherford County  
Agricultural Community  
Rutherford County Farm Bureau

## What is the Voluntary Farmland Preservation Program?

The purpose of the Voluntary Farmland Preservation Program is to encourage the voluntary preservation and protection of farmland from non-farm development. This is in recognition of the importance of agriculture to the economic and cultural life of the county.

The General Assembly of the State of North Carolina authorized counties to undertake a series of programs to encourage the preservation of farmland. This statutory authority is found in Chapter 106, Article 61 of the North Carolina General Statutes. On October 2, 2000, the Rutherford County Board of Commissioners adopted the Voluntary Farmland Preservation Program Ordinance for Rutherford County, North Carolina.

The ordinance provides for the creation of an Agricultural Advisory Board to administer this program. The Board will review and approve applications for qualifying farmland as well as establishing Voluntary Agricultural Districts.

## Who are the Members of this Agricultural Advisory Board?

The Agricultural Advisory Board is composed of seven County residents. At least 5 members are required to be actively engaged in farming. Members are selected from a list of names submitted to the County Commissioners. The names and telephone numbers of Board members are listed on the back of this brochure. Assistance is provided by Rutherford Soil & Water Conservation District, the Rutherford County Tax Assessor's Office, North Carolina Cooperative Extension Service, Rutherford County Farm Bureau.

## What are the qualifications to become a member of the program?

The farm must be participating or be eligible for participation in the farm present-use-value taxation program. The primary qualifications for this present-use-value taxation program are the following:

(1) Individually owned agricultural land, consisting of at least ten (10) acres, that have produced an average annual income, of one thousand dollars (\$1000) annually over a three-year period, or (2) Individually owned forest land consisting of at 20 acres that are in actual production and not included in a farm unit. The land must be certified by the Natural Resources Conservation Service as appropriate for this Voluntary Farmland Preservation Program.

An Agricultural District will consist of at least 50 acres of qualifying farmland individually or separately owned, which are located within one mile of each other. Participating landowners will sign an agreement to sustain, encourage and promote agriculture. A complete list of requirements is available from the agencies listed on the back of this brochure.

## What will joining the Voluntary Farmland Preservation Program do for me?

As part of the Voluntary Farmland Preservation Program, public hearings will be required on a proposed condemnation by state or local public agencies. Agricultural landowners in certified districts will not be required to connect to water and/or sewer systems, or be assessed water and sewer charges until that property is connected to such services.

The program will help increase the identity and pride in the agricultural community and its way of life. Members of the Voluntary Farmland Preservation Program will have increased protection from nuisance suits and other negative impacts on participating farms. Maps designating participating farms that form Agricultural Districts will be posted in appropriate county offices.

